



DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD- 2021-0269]

Privacy Act of 1974; Department of Transportation, Maritime Administration;

DOT/MARAD 035; United States Merchant Marine Academy (USMMA) Student

Religious Accommodations Files

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Maritime Administration (MARAD) intends to establish a new system of records for the United States Merchant Marine Academy (USMMA) entitled “DOT/MARAD 035—USMMA Student Religious Accommodations Files.” This system allows MARAD/USMMA to collect, use, maintain, and disseminate the records needed to process, manage, maintain, and resolve reasonable accommodation requests from USMMA students and accepted applicants based on religious belief, practice, or observance. This includes requests for accommodation to decline vaccinations. The information will be used to make determinations for exemptions to vaccination requirements. MARAD/USMMA is required to consider reasonable accommodation requests in accordance with applicable law including the Religious Freedom Restoration Act and Executive Order 13160, Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs.

DATES: This new system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before *[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. The Routine Uses will become effective at the

close of the comment period. MARAD may publish an amended System of Records Notice (SORN) in light of any comments received.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2021-0269 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Search “MARAD-2021-0269” and follow the instructions for submitting comments.
- E-mail: Rulemakings.MARAD@dot.gov. Include “MARAD-2021-0269” in the subject line of the message.
- *Mail/Hand-Delivery/Courier:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Room W12-140, Washington, DC 20590. If you would like to know that your comments reached the facility, please enclose a stamped, self-addressed postcard or envelope. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

You may view the public comments submitted on this rulemaking at www.regulations.gov. When searching for comments, please use the Docket ID: MARAD-2021-0269. An electronic copy of this document may also be downloaded from the Office of the Federal Register’s Website at www.FederalRegister.gov and the Government Publishing Office’s Website at www.GovInfo.gov.

Note: If you mail or hand-deliver your input, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission. If you submit your inputs by mail or hand-delivery, they must be submitted in an unbound format, no larger than 8 1/2 by 11 inches, single-sided, suitable for copying and electronic filing.

Instructions: All submissions received must include the agency name and docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments

and additional information on the rulemaking process, see the section entitled **Public**

Participation.

FOR FURTHER INFORMATION CONTACT: For general and privacy questions, please contact Karyn Gorman, Acting Departmental Chief Privacy Officer, Department of Transportation, S-83, Washington, DC 20590, Email: privacy@dot.gov, Tel. (202) 366-3140.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Privacy Act of 1974, 5 U.S.C. § 552a, MARAD is proposing a new system of records entitled “DOT/MARAD 035—USMMA Student Religious Accommodations Files.” Executive Order 13160, Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs and the Religious Freedom Restoration Act (RFRA)], 42 U.S.C. §§ 2000bb *et seq.*, require MARAD/USMMA to provide religious accommodations in some circumstances. MARAD/USMMA is required to collect information on religious accommodation requests to determine eligibility for religious accommodations, and grant or deny accommodation or exemption for such a request. This system will collect information related to individuals requesting religious exemptions from vaccines or other accommodations necessary for the free exercise of religion. By requesting a religious accommodation, individuals are authorizing MARAD/USMMA to collect and maintain a record of information pertaining to the exercise of religious beliefs protected by the First Amendment.

In order to make a determination regarding religious accommodation, the USMMA must collect information from the accepted applicant or student applying for accommodation. The information contained within this system of records will be collected directly from individual USMMA students and accepted applicants who are the subject of the record. This new system will be included in MARAD’s inventory of record systems.

MARAD has also included DOT General Routine Uses, to the extent they are compatible with the purposes of this System. As recognized by the Office of Management and Budget (OMB) in its Privacy Act Implementation Guidance and Responsibilities (65 FR 19746 (July 9, 1975)), the routine uses include proper and necessary uses of information in the system, even if such uses occur infrequently. MARAD is including in this notice routine uses for disclosures to law enforcement when the record, on its face, indicates a violation of law, to DOJ for litigation purposes, or when necessary in investigating or responding to a breach of this system or other agencies' systems. MARAD may disclose to Federal, State, local, or foreign agency information relevant to law enforcement, litigation, and proceedings before any court or adjudicative or administrative body. OMB has long recognized that these types of routine uses are "proper and necessary" uses of information and qualify as compatible with agency systems (65 FR 19476, April 11, 2000). In addition, OMB Memorandum M-17-12, directed agencies to include routine uses that will permit sharing of information when needed to investigate, respond to, and mitigate a breach of a Federal information system. MARAD has also included routine uses that permit sharing with the National Archives and Records Administration when necessary for an inspection, to any Federal government agency engaged in audit or oversight related to this system. MARAD also has included routine uses that permit the sharing of information necessary for transferring USMMA students either to other schools or to the military, as it relates to requests under the Family Education Rights and Privacy Act (FERPA), as well as when in connection to the hiring, firing, or retention of an employee or contractor, or the issuance of a security clearance, license, certification, contract, grant, or other benefit. These types of disclosures are necessary and proper uses of information in this system because they further MARAD's obligation to fulfil its records management and program management responsibilities by facilitating accountability to agencies charged with oversight in these areas.

Public Participation

How do I submit comments on the proposed rule?

Your comments must be written and in English. Include the docket number in your comments to ensure that your comments are correctly filed in the Docket. We encourage you to provide concise comments; however, you may attach additional documents as necessary. There is no limit on the length of the attachments. Please submit your comments, including the attachments, following the instructions provided under the above entitled heading

ADDRESSES.

MARAD will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, MARAD will also consider comments received after that date.

For access to the docket to submit or read comments received, go to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays. To review documents, read comments or to submit comments, the docket is also available online at www.regulations.gov, keyword search “MARAD-2021-0269.”

Will my comments be made available to the public?

Before including your address, phone number, email address or other personal information in your comment, be aware that your entire comment, including your personal identifying information, will be made publicly available. Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue, SE, Washington, DC 20590. When you submit comments containing information claimed to be confidential information, you should include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

The Privacy Act (5 U.S.C. § 552a) governs the means by which the federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act extends rights and protections to individuals who are U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act (JRA) provides a covered person with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act. You may review the DOT's complete Privacy Act statement in the *Federal Register* published on April 11, 2000 (65 FR 19477–78), or you may visit <https://DocketsInfo.dot.gov>.

Below is the description of the USMMA Student Religious Accommodations Files System of Records. In accordance with 5 U.S.C. § 552a(r), MARAD has provided a report of this system of records to the OMB and to Congress.

SYSTEM NAME AND NUMBER: DOT/MARAD 035; USMMA Student Religious Accommodations Files

SECURITY CLASSIFICATION: Unclassified

SYSTEM LOCATION: Records are maintained by the United States Merchant Marine Academy (USMMA), 300 Steamboat Road, Kings Point, NY 11024, and other MARAD or Department of Transportation installations or offices.

SYSTEM MANAGER(S): Commandant of Midshipmen, 300 Steamboat Road, Kings Point, New York 11024, Commandantoffice@usmma.edu, (516) 726-5664.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

- Executive Order 13160 of June 23, 2000- Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs
- The Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141

PURPOSE(S) OF THE SYSTEM: The purpose of the system is to collect information from USMMA students and accepted applicants seeking religious accommodations in order to approve or deny requests for religious accommodation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are USMMA students or accepted applicants who have requested religious accommodation.

CATEGORIES OF RECORDS IN THE SYSTEM: Records include names of individuals seeking accommodation, the nature of the request for accommodation, how complying with the relevant requirement would burden religious exercise, how long the belief asserted to be contrary to a MARAD or USMMA requirement has been held, and any other information necessary or helpful for USMMA to evaluate the request for accommodation. Personally identifiable information (PII) elements: Name, birth date, student photographic identification, residential address, phone number, email, USMMA campus address, other information submitted by requestors that they believe may be helpful in making a determination.

RECORD SOURCE CATEGORIES: USMMA students and accepted applicants seeking religious accommodations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

System Specific Routine Uses

1. To all authorized recipients, such as a parent, medical facility, service provider, school, or branch of military to which the student is transferring, consistent with disclosures permitted or required by the Family Education Rights and Privacy Act (FERPA), or required by another Federal statute.

General Routine Uses

The following routine uses may be subject to restrictions on disclosure by another law, including but not limited to FERPA:

1. To Federal, State, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing, or retention of an employee or contractor, or the issuance of a security clearance, license, certification, contract, grant, or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.
2. In the event that a system of records maintained by MARAD/USMMA to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order.
3. Routine Use for Disclosure for Use in Litigation.
 - a) It will be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when—
 - (i) MARAD or USMMA, or
 - (ii) Any employee of MARAD/USMMA, in their official capacity, or
 - (iii) Any employee of MARAD/USMMA, in their individual

capacity where the Department of Justice has agreed to represent the employee, or

(iv) The United States or any agency thereof, where MARAD determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by MARAD to be relevant and necessary in the litigation.

b) Routine Use for Agency Disclosure in Other Proceedings. It will be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which MARAD/USMMA, appears, when— (a) MARAD/USMMA, or (b) Any employee of MARAD/USMMA in their official capacity, or (c) Any employee of MARAD/USMMA in their individual capacity where MARAD has agreed to represent the employee, or (d) The United States or any agency thereof, where MARAD determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and MARAD determines that use of such records is relevant and necessary in the proceeding.

4. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).

5. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration (NARA) in records management inspections being conducted under the authority of 44 U.S.C. sections 2904 and 2906.
6. DOT may disclose records from the system, as a routine use to appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that there has been a breach of the system of records, (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
7. DOT may disclose records from the system, as a routine use to another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
8. MARAD may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of (i) resolving disputes between FOIA requesters and federal agencies and (ii) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.
9. MARAD may disclose records from the system, as a routine use, to contractors and their agents, experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for MARAD, when necessary to accomplish an agency function related to this system of records.

10. MARAD may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under Section (b)(1) of the Privacy Act and FERPA.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Records in this system are stored in paper/hard copy at a federally controlled installation. Department of Transportation (DOT) Operating Administrations safeguard records in all system of records according to applicable rules, policies, and procedures, including all applicable DOT automated systems security and access policies. DOT policies require the use of controls to minimize the risk of compromise of personally identifiable information (PII) in paper and electronic form and to enforce access by those with a need to know and with appropriate clearances. DOT routinely employs safeguards such as the following to information systems and paper recordkeeping systems: Multifactor log-in authentication and password; physical and technological access controls governing access to data; network encryption to protect data transmitted over the network; disk encryption securing disks storing data; key management services to safeguard encryption keys; masking of sensitive data as practicable; mandatory information assurance and privacy training for individuals who will have access; identification, marking, and safeguarding of PII; physical access safeguards and detection.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records on individuals will be retrieved by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records will be held in accordance with Records Control Schedule, RG-0357 Maritime Administration, Comprehensive Schedule, Sections 855 and 864. Individual files created, received, and maintained for the purpose of providing reasonable accommodations that have been requested for or by a USMMA student or accepted applicant, including the following:

requests, approvals, and denials, notice of procedures for informal dispute resolution or appeal processes, forms, correspondence, records of oral conversations, policy guidance documents, supporting notes and documentation. Accordingly, the records will be destroyed 60 years after the information provider's departure or graduation from the USMMA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT/MARAD/USMMA security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

When seeking records about yourself from this system of records or any other MARAD/USMMA system of records, your request must conform with the Privacy Act regulations set forth in 49 CFR Part 10. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. § 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. Individual USMMA accepted applicants or students seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request, in accordance with FERPA, in writing to the System Manager at the address identified in "System Manager and Address" above. Individuals may also search the public docket at www.regulations.gov by their name.

You may also request information under the FOIA. While no specific form is required, you should provide to MARAD's FOIA Officer (contact information available on MARAD's website) the following information:

- An explanation of why you believe the MARAD/USMMA would have information about you;

- Identify which component(s) of MARAD/USMMA you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which MARAD/USMMA component may have responsive records; and

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying their agreement for you to access their records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES: See Record Access Procedures

NOTIFICATION PROCEDURES: See Record Access Procedures

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: None.

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021-28077 Filed: 12/23/2021 8:45 am; Publication Date: 12/27/2021]